

**Minutes of Meeting  
BOARD FOR CONTRACTORS  
INFORMAL FACT-FINDING CONFERENCES  
February 8, 2005 (9:00 a.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Michael Redifer, Board member, presided. No other Board members were present.

Jeffrey Buckley appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case  
Lic = Licensing Application  
RF = Recovery Fund Claim  
Trades = Tradesmen Application

C = Complainant/Claimant  
A = Applicant  
R = Respondent/Regulant  
W = Witness  
Atty = Attorney

Participants

- |   |  |
|---|--|
| 1. Wedge Construction Inc.<br>File Number 2004-04216 (Disc)                         | Ben Benita – R<br>Amy Lansing – C<br>Wayne Logan – W |
| 2. Shore Electrical Construction Co.<br>File Number 2004-02955 (Disc)               | Joseph Matthews – R                                  |
| 3. Carl B. Weston<br>t/a Weston's Home Improvement<br>File Number 2004-02383 (Disc) | Carl Weston – R<br>Dennis Weston – C                 |
| 4. Rickie Evans<br>t/a R E Construction<br>File Number 2004-03926 (Disc)            | None   |
| 5. Don D. Cooper<br>t/a Superior Home Remodeling<br>File Number 2004-04576 (Disc)   | Jerry Glasow – C<br>Priscilla Glasow – C             |
| 6. Lifetime Homes of Virginia Inc.<br>File Number 2004-04426 (Disc)                 | None   |

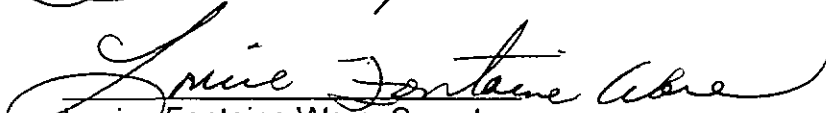
7. CW & Son Paving & Hauling Inc.  
File Number 2004-03921 (Disc)  
(No decision made)

Wesley Williams – R  
Robert Flax – R Atty

The meeting adjourned at 4:00 p.m.

BOARD FOR CONTRACTORS

  
Mark D. Kinser, Chairman

  
Louise Fontaine Ware, Secretary

COPY TESTE:

\_\_\_\_\_  
Custodian of Records

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR CONTRACTORS**

Re: Wedge Construction Inc, t/a Wedge Construction Inc  
Sterling, VA 20167

File Number 2004-04216  
License Number 2705020285

**CONSENT ORDER**

Respondent Wedge Construction Inc, t/a Wedge Construction Inc ("Wedge Construction Inc") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

**Board's 2003 Regulations provides:**

**18 VAC 50-22-200. Remedial education, revocation or suspension; fines.**

The board may require remedial education, revoke or suspend a license or fine a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

Pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended:

On December 16, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Wedge Construction Inc. ("Wedge") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On February 8, 2005, at 9:15 a.m., an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Amy Lansing ("Lansing"), Complainant (by phone); Wayne Logan ("Logan"), Witness; Jeffrey W. Buckley, Staff Member; and Michael Redifer, Presiding Board Member. Ben Benita ("Benita"), on behalf of Wedge, appeared subsequent to the convened IFF and explained why he was not available to attend the IFF at the scheduled time of 9:00 a.m. At that time, Benita agreed to enter into a Consent Order.

The Amended Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

The Board and Wedge Construction Inc, as evidenced by the signatures affixed below, enter into this Consent Order. Wedge Construction Inc knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

By signing this Consent Order, Wedge Construction Inc acknowledges an understanding of the charges and hereby admits to the violation(s) of the Counts as outlined in the Amended Report of Findings. Wedge Construction Inc consents to the following term(s):

	Count 1	18 VAC 50-22-260.B.9	\$350.00
	Count 2	18 VAC 50-22-260.B.29	\$350.00
			-----
	TOTAL		\$700.00

Any monetary penalties, costs, and/or sanctions are to be paid/performed within thirty days of the effective date of this consent order unless otherwise specifically noted above. Wedge Construction Inc acknowledges any monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Wedge Construction Inc will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

**Wedge Construction Inc acknowledges that failure to pay any monetary penalty or cost and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Wedge Construction Inc's license until such time as there is compliance with all terms of this Order. Wedge Construction Inc understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.**

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

\_\_\_\_\_  
Wedge Construction Inc  
t/a Wedge Construction Inc

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title of Person Signing on behalf of Entity

CITY/COUNTY OF \_\_\_\_\_  
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**SO ORDERED:**

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Board for Contractors

BY: \_\_\_\_\_  
Louise Fontaine Ware, Secretary

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VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

AMENDED  
REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: August 17, 2004 (revised November 9, 2004 and amended  
February 8, 2005)

FILE NUMBER: 2004-04216  
RESPONDENT: Wedge Construction, Inc.  
LICENSE NUMBER: 2705020285  
EXPIRATION: April 30, 2005

SUBMITTED BY: Sherell Queen  
APPROVED BY: Linda J. Boswell

COMMENTS:

None.

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Wedge Construction Inc. ("Wedge") was at all times material to this matter a licensed Class A contractor in Virginia (No. 2705020285).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On April 14, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received information from Virginia Clarke ("Clarke"), Administrative Officer for the City of Alexandria Code Enforcement, regarding Wedge. (Exh. C-1)

On October 15, 2003, Wedge provided Dave and Amy Lansing ("the Lansings") a written proposal/agreement ("the contract") to remodel bathroom A at a cost of \$8,875.00, bathroom B at a cost of \$13,970.00, and the kitchen at a cost of \$26,880.00 at 1628 Ripon Place,

Alexandria, Virginia. The contract was signed by Ben Benita of Wedge but not the Lansings. (Exh. C-2)

On October 15, 2003, the Lansings paid Wedge \$100.00 by check. (Exh. C-4)  
Wedge solicited WH Logan, Inc. ("WH Logan") to perform or supervise electrical work at the subject property. (Exh. I-6)

On November 12, 2003, W H Logan, Class A contractor's license number 2705042717, obtained electrical permit number ELE2003-01909 to install a washer, dryer, dishwasher, and three switches at the subject property. (Exh. I-5)

On November 18, 2003, the Lansings and Wedge agreed to remodel only the kitchen. (Exh. C-3)

On November 21, 2003, the Lansings paid Wedge \$10,000.00 by check. (Exh. C-4)

On November 28, 2003, the Lansings and Wedge signed a written change order for the modification to the original contract. (Exh. C-3)

On December 1, 2003, the Lansings paid Wedge \$6,880.00 by check. On December 17, 2003, the Lansings paid Wedge \$4,000.00 by check. On December 26, 2003, the Lansings paid Wedge \$2,780.00 by check. On March 1, 2004, the Lansings paid Wedge \$3,000.00 by check. (Exh. C-4)

Mike Jones ("Jones") performed electrical work at the subject property. (Exh. I-1, I-3, and I-4)

On February 13, 2004, Hardy R E Plumbing & Heat, license number 2705012595, obtained plumbing permit number PLM2004-00181 to run a new line for washer box and replace a kitchen sink at the subject property. (Exh. W-1)

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1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
  - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and

FACTS:

The contract used by Wedge in the transaction failed to contain subsection: (h) license expiration date. (Exh. C-2)

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

29. Contracting with an unlicensed or improperly licensed contractor or subcontractor in the delivery of contracting services.

FACTS:

After the electrical work was completed, the Lansings and Jones entered into a verbal agreement, in the amount of \$650.00, for the installation of a new electrical panel at the subject property. Jones asked Wedge to put the agreement in writing and collect on Jones' behalf. (Exh. R-1)

In an undated letter, Wedge stated "The work that the Lansing's asked Mr. Jones to do on the side and after the fact, was accomplished, and a portion of it billed as agreed for Mr. Jones by Wedge Construction Inc., and money passed through to him." (Exh. R-1)

In a letter dated June 6, 2004, WH Logan stated, "I was never on this project until after the complaint was filed." WH Logan also stated "Since I had not performed any of the work, I did not invoice for any monies except for the acquisition of the permit and the single service call to examine the heat pump unit. The money Mr. Benita paid Mr. Jones was between the two of them, and did not involve me in any way." (Exh. I-6)

On August 19, 2004, WH Logan stated Jones did not do any work under WH Logan's supervision. WH Logan further stated Jones has never been an employee of WH Logan. (Exh. I-4)

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR CONTRACTORS**

Re: Shore Electrical Construction Co.

File Number: 2004-02955  
License Number: 2705069072

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On December 16, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Shore Electrical Construction Co. to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On February 8, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph Matthews ("Matthews"), Respondent; Jeffrey W. Buckley, Staff Member; and Michael Redifer, Presiding Board Member.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective January 1, 2003)

Shore Electrical Construction Co.'s failure to obtain the complainant's signature on the contract prior to the commencement of work or acceptance of payments is a violation of 18 VAC 50-22-260.B.8. During the IFF Conference, Matthews stated he presented a proposal to the complainants and the complainants verbally accepted the project. Therefore, I recommend a monetary penalty of \$350.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

Count 2: Board Regulation (Effective January 1, 2003)

Shore Electrical Construction Co.'s failure to include subsections a., d., e., f., h., and i. within the contract entered into with the complainants on July 2, 2003, is a violation of 18 VAC 50-22-260.B.9. During the IFF, Matthews acknowledged the contract failed to include the aforementioned subsections. Therefore, I recommend a monetary penalty of \$350.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

Count 3: Board Regulation (Effective January 1, 2003)

Shore Electrical Construction Co.'s failure to obtain an electrical permit for work performed is a violation of 18 VAC 50-22-260.B.6. During the IFF, Matthews stated a permit was not typically required when work performed in Richmond involved changing a switch; however, permits were required if the work involved a change in the electrical service. The work for this project was performed in Accomack County, which required a permit for any new or additional electrical work.

Based on Matthews' experience with the permitting policy of the city of Richmond, I believe Matthews misunderstood the permit requirements for Accomack County. Therefore, I recommend no monetary penalty be imposed.

Count 4: Board Regulation (Effective January 1, 2003)

Shore Electrical Construction Co.'s failure to properly construct and install the electrical work contracted for with the complainants is a violation of 18 VAC 50-22-260.B.5.

During the IFF, Matthews stated he mismanaged the job and did not supervise the job properly. Matthews also stated the complainants were unhappy with the work performed and he refunded money to the complainants. Matthews further stated he could not dispute what Homer Cherix found at the subject property because he does not know what Homer Cherix observed. Matthews finally stated the employees that performed the work at the subject property are no longer employees for Shore Electrical Construction Co.

Based on the record, I believe the work performed by Shore Electrical Construction Co. resulted in unsafe conditions in the electrical system. In addition, Matthews has taken corrective measures to prevent a recurrence of this type of situation. Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 5: Board Regulation (Effective January 1, 2003)

Shore Electrical Construction Co.'s failure to maintain for a period of five years from the date of the contract a complete and legible copy of all documents relating to that contract is a violation of 18 VAC 50-22-260.B.11.

During the IFF, Matthews stated the proposal the complainants had was the only copy. Any documents produced, such as proposals and correspondences, would have been stored on the computer, but the documents cannot be retrieved because the computer crashed. Therefore, I recommend no monetary penalty be imposed.

By: \_\_\_\_\_  
Michael Redifer  
Presiding Officer Board Member

Board for Contractors

Date: \_\_\_\_\_

#### **MONETARY PENALTY TERMS**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: August 30, 2004 (revised November 8, 2004)

FILE NUMBER: 2004-02955  
RESPONDENT: Shore Electrical Construction Co.  
LICENSE NUMBER: 2705069072  
EXPIRATION: May 31, 2006

SUBMITTED BY: Valerie J. Matney  
APPROVED BY: David C. Dorner

COMMENTS:  
None.

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Shore Electrical Construction Co. ("Shore Electrical") was at all times material to this matter a licensed Class B contractor in Virginia (No. 2705069072).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On January 21, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Kim Grewe ("Grewe") and Teresa Guy ("Guy") regarding Shore Electrical. (Exh. C-1)

On July 2, 2003, Shore Electrical submitted a written estimate, in the amount of \$735.00, to Grewe and Guy to install circuits, electrical outlets, phone jacks, and light fixtures at 18195 Second Street, Keller, Virginia. (Exh. C-2)

On August 20, 2003, Shore Electrical commenced work. (Exh. C-1)

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1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

FACTS:

Shore Electrical failed to obtain the consumer's signature prior to the commencement of work or acceptance of payments.

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
  - a. When work is to begin and the estimated completion date;
  - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
  - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
  - f. Disclosure of the cancellation rights of the parties;
  - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and
  - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

FACTS:

The contract used by Shore Electrical in the transaction failed to contain subsections: (a), (d), (e), (f), (h), and (i). (Exh. C-2)

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

6. Misconduct in the practice of contracting.

FACTS:

As of June 28, 2004, Shore Electrical failed to obtain a required electrical permit, in violation of Section 111.1 of the Virginia Uniform Statewide Building Code, for electrical work performed at the subject property. (Exh. I-5)

4. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

5. Negligence and/or incompetence in the practice of contracting.

FACTS:

Because of their dissatisfaction with the work, Grewe and Guy met with Joseph Matthews ("Matthews") of Shore Electrical on August 22, 2003. Matthews acknowledged corrective measures needed to be taken. (Exh. C-1)

On August 27, 2003, Grewe and Guy provided Matthews with a punch list of items to be corrected. (Exh. C-1 and C-3) Matthews made the corrections and told Grewe and Guy \$300.00 would be deducted from the contract for the cost of repairing the walls damaged by Shore Electrical. (Exh. C-1)

In a letter dated September 7, 2003, Grewe and Guy advised Shore Electrical the dusk-to-dawn light was not working and the business relationship was dissolved. (Exh. C-5)

A week before Thanksgiving 2003, Grewe and Guy discovered a few of the receptacles did not work. Since they terminated Shore Electrical, Grewe and Guy contacted Homer Cherix ("Cherix"), t/a Sun Electric Company, to inspect and correct the problem. Based on Cherix's inspection, Grewe and Guy discovered several problems with the electrical work performed by Shore Electrical. (Exh. C-1)

On November 20, 2003, Cherix provided Grewe and Guy with a work order, in the amount of \$780.12, to perform electrical work at the subject property. (Exh. C-7) Cherix corrected the electrical work at the subject property. (Exh. C-1)

In a letter dated July 28, 2004, Cherix outlined his observations of the electrical work performed by Shore Electrical at the subject property. Cherix stated "there were numerous inconsistencies and code violations that were not only shoddy but outright dangerous." (Exh. W-1)

5. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

11. Failure of the contractor to maintain for a period of five years from the date of contract a complete and legible copy of all documents relating to that contract, including, but not limited to, the contract and any addenda or change orders.

FACTS:

On February 4, 2004, Investigator Valerie J. Matney, the Board's agent, made a written request to Shore Electrical at the address of record of P.O. Box 390, Cape Charles, Virginia 23310, requesting a written response and relevant documents included a complete copy of the contract. The Board's agent requested the written response and documents be received by February 27, 2004. (Exh. I-2)

In a written response dated February 11, 2004, Shore Electrical stated "the computer in the office crashed in November of 2003 and therefore I cannot product a copy of the estimate nor subsequent follow up letters." (Exh. R-1)

Shore Electrical failed to maintain for a period of five years from the date of the contract a complete and legible copy of all documents relating to that contract.

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR CONTRACTORS**

Re: Carl B. Weston, t/a Weston's Home Improvement

File Number: 2004-02383  
License Number: 2705031946

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On December 16, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Carl B. Weston ("Weston"), t/a Weston's Home Improvement, to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On February 8, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Carl B. Weston, Respondent; Dennis Weston; Complainant; Jeffrey W. Buckley, Staff Member; and Michael Redifer, Presiding Board Member.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective January 1, 2003)

Weston's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed is a violation of 18 VAC 50-22-260.B.8. During the IFF, Weston acknowledged a written contract was not used since the work performed was for a family member and he felt he did not need a contract at the time. Therefore, I recommend a monetary penalty of \$100.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

Count 2: Board Regulation (Effective January 1, 2003)

Weston's failure to operate in the name in which he is licensed is a violation of 18 VAC 50-22-230.A. During the IFF, Weston acknowledged the name of his company has not changed. Weston stated he intends to let the corporation lapse and all documents will be updated to reflect the correct trade name. Therefore, I recommend a monetary penalty of \$250.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

Count 3: Board Regulation (Effective January 1, 2003)

Weston's failure to follow the manufacturer specifications for the installation of the self-adhesive tiles is a violation of 18 VAC 50-22-260.B.5.

The manufacturer's instructions specifically stated, "Test for moisture: contact your dealer for appropriate method. If moisture is present, apply sheet vinyl moisture barrier before installation." Prior to the commencement of work, the complainant informed Weston that the water heater flooded the room about four to five months earlier. However, Weston did not contact the dealer, nor was a sheet vinyl moisture barrier installed.

Moreover, Weston failed to use a latex based floor primer, as also outlined within the manufacturer's directions. In addition to the self-stick adhesive, Weston used a glue to adhere the tiles to the floor. The absence of a latex based floor primer and the combination of the glue with the adhesive already on the tiles prevented the tiles from bonding to the floor. The moisture caused by the water heater flooding further prevented an adequate bond of the tiles to the floor.

During the IFF, Weston stated there is a moisture problem at the subject property. Weston stated he called the company and was told the problem was an environmental problem and not an installation problem; therefore, the company did not believe a moisture barrier would not have prevented the problem.

Weston also stated these were "Do It Yourself" tiles. Weston further stated the reason the instructions say glue is not needed is that a homeowner would not normally know how to lay the glue properly.

During the IFF, the complainant stated the tile company told him the glue should not have been used with the self-adhesive tiles and a moisture barrier should have been installed.

By Weston's own admission, he did not install the tiles in accordance with the manufacturer's instructions. Therefore, I recommend a monetary penalty of \$500.00 remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

By: \_\_\_\_\_  
Michael Redifer  
Presiding Officer Board Member  
  
Board for Contractors

Date: \_\_\_\_\_

#### **MONETARY PENALTY TERMS**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: November 2, 2004 (revised November 19, 2004)

FILE NUMBER: 2004-02383  
RESPONDENT: Carl B Weston, t/a Weston's Home Improvement  
LICENSE NUMBER: 2705031946  
EXPIRATION: December 31, 2005

SUBMITTED BY: Renee H. Popielarz  
APPROVED BY: E. Wayne Mozingo

COMMENTS:

On April 6, 1999, Weston's Home Improvement Inc. was issued Class B contractor's license number 2705049038 as a corporation. On April 30, 2001, the license expired and lapsed on November 1, 2001.

On January 23, 2001, Weston's Home Improvement Inc. was issued Class A contractor's license number 2705060401 as a corporation. On September 4, 2002, the license was terminated. On January 31, 2003, the license expired and lapsed on August 1, 2003.

Weston's Home Improvement Inc. is still registered with the State Corporation Commission. Carl Weston indicated he will correct his paperwork so it corresponds with his sole proprietor license or obtain the proper license for the corporation.

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Carl B. Weston, t/a Weston's Home Improvement ("WHI"), was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705031946).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violations of the Code of Virginia and/or Board's regulations:

BACKGROUND:

On December 4, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Dennis Weston ("Weston") regarding Weston's Home Improvement Inc. (Exh. C-1)

On February 20, 2003, Weston's Home Improvement Inc. commenced work at 659 Highway 15, Clarksville, Virginia 23927. (Exh. R-1 and I-1)

On March 3, 2003, Weston's Home Improvement Inc. sent Weston an invoice, in the amount of \$790.00, for labor to remove and install a door, patch the floor, and install floor covering at the subject property. (Exh. C-3)

On March 3, 2003, Weston paid Carl Weston \$790.00 by check. (Exh. C-4)

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1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

FACTS:

In a written response dated February 1, 2004, Carl Weston of Weston's Home Improvements Inc. stated, "There never was a contract between WHI, Inc. and Dennis Weston." (Exh. R-1)

On November 1, 2004, Carl Weston admitted he did not use a contract because the work was for family and was by the hour. Weston also stated he usually does provide a contract. (Exh. I-9)

WHI failed to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed.

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-230. Change of name or address.

- A. A licensee must operate under the name in which the license is issued. Any name change shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of name.

FACTS:

WHI failed to operate in the name in which it is licensed.

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

- B. The following are prohibited acts:

5. Negligence and/or incompetence in the practice of contracting.

FACTS:

The manufacturer instructions specified, "Test for moisture: Contact you dealer for appropriate method. If moisture is present, apply sheet vinyl moisture barrier before installation." (Exh. C-2)

About four to five months prior to work performed, Weston's water heater flooded the utility room. (Exh. I-1)

On February 25, 2003 and February 26, 2003, WHI installed the new floor covering. (Exh. C-1)

Prior to installation of the tiles, WHI patched the floor but did not apply a latex primer or test for moisture. (Exh. I-1) During the installation of the self-stick urethane coated vinyl block tile, WHI put glue on the tiles. (Exh. C-1)

The manufacturer instructions specified, "Remove backing to expose adhesive; lay first tile along centerline." (Exh. C-2)

After four months, Weston noticed the tile started coming up from the floor. Weston also noticed the glue is still wet and bleeds through the cracks in the tile. (Exh. C-1)

In a written response dated February 1, 2004, WHI stated "As to the block tile floor, I feel moister is the same problem." (Exh. R-1)

WHI failed to follow the manufacturer specifications for the installation of the tile.

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR CONTRACTORS**

Re: Rickie Evans, t/a R E Construction

File Number: 2004-03926  
License Number: 2705060017

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On December 16, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Rickie Evans, t/a R E Construction to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On February 8, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jeffrey W. Buckley, Staff Member; and Michael Redifer, Presiding Board Member. Neither Rickie Evans, t/a R E Construction nor anyone on his behalf appeared at the IFF.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective January 1, 2003)

Rickie Evans, t/a R E Construction failure to use a contract that contained subsections: (a), (d), (e), and (h) is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$350.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

Count 2: Board Regulation (Effective January 1, 2003)

Rickie Evans, t/a R E Construction failure to fully execute the contract prior to the acceptance of payments is a violation of Board Regulation 18 VAC 50-22-260.B.9. Specifically, neither the Regulant or the complainant signed the contract. Therefore, I recommend a monetary penalty of \$350.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

Count 3: Board Regulation (Effective January 1, 2003)

Rickie Evans, t/a R E Construction practiced in a class of license for which he is not licensed, which is a violation of Board Regulation 18 VAC 50-22-260.B.27. On January 26, 2001, the Regulant was issued a Class B Contractor's license. However, the Regulant entered into a contract with the complainants in the amount of \$115,000.00. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation (Effective January 1, 2003)

Rickie Evans, t/a R E Construction failure to obtain written change orders, signed by both parties, is a violation of Board Regulation 18 VAC 50-22-260.B.31. Therefore, I recommend a monetary penalty of \$350.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

By: \_\_\_\_\_

Michael Redifer  
Presiding Officer Board Member

Board for Contractors

Date: \_\_\_\_\_

#### **MONETARY PENALTY TERMS**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC*

*SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS  
SAID AMOUNT IS PAID IN FULL.*

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: June 8, 2004 (revised September 21, 2004)

FILE NUMBER: 2004-03926  
RESPONDENT: Rickie Evans, t/a R.E. Construction  
LICENSE NUMBER: 2705060017  
EXPIRATION: January 31, 2005

SUBMITTED BY: Sherell Queen  
APPROVED BY: Linda Boswell

COMMENTS:

None.

\*\*\*\*\*

Rickie Evans ("Evans"), t/a R.E. Construction, was at all times material to this matter a licensed Contractor Class B in Virginia (No. 2705060017).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On March 23, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Rosanne Amari ("Amari") regarding Evans. (Exh. C-1)

On March 18, 2003, Carmela Innocenzi ("Innocenzi") paid Evans \$1,100.00 and \$700.00 by two checks. On April 9, 2003, Innocenzi paid Evans \$14,000.00 by check. (Exh. C-4)

On April 10, 2003, Innocenzi entered into a series of written contracts with Evans, in the total amount of \$115,000.00, to construct a new house at 270 Sawmill Drive, Gore, Virginia. (Exh. C-2)

On April 11, 2003, Evans commenced work. (Exh. R-1)

On May 7, 2003, Amari paid Evans \$11,000.00 by check. On May 29, 2003, Amari paid Evans \$4,000.00 by check. On June 7, 2003, Amari paid Evans \$20,000.00 by check. On July 3, 2003, Amari paid Evans \$20,000.00 by check. On July 31, 2003, Amari paid Evans \$15,000.00 by check. On August 7, 2003, Amari paid Evans \$12,000.00 by check. On October 29, 2003, Innocenzi paid Evans \$6,000.00 by check. On November 2, 2003, Amari paid Evans \$6,000.00 by check. On November 6, 2003, Amari paid Evans \$12,000.00 by check. On December 16, 2003, Amari paid Evans \$5,000.00 and \$1,800.00 by two checks. (Exh. C-4)

On July 12, 2003, Evans completed the excavation, including putting in the driveway, clearing 2 acres of the lot of trees and stumps, digging the foundation, and using a loader to pull trucks up the steep and muddy driveway. (Exh. R-1)

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1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
  - a. When work is to begin and the estimated completion date;
  - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
  - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
  - f. Disclosure of the cancellation rights of the parties;
  - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services;

FACTS:

The contracts used by Evans in the transaction failed to contain subsections: (a); (d); (e); (f); and (h) contractor's address, license number, expiration date, class of license, and classifications or specialty services. (Exh. C-2)

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

FACTS:

Evans failed to fully execute the contract prior to the acceptance of payments.

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

27. Practicing in a classification, specialty service, or class of license for which the contractor is not licensed.

FACTS:

On January 26, 2001, Evans was issued Class B Contractor's license number 2705060017. (Exh. I-3)

Section 54.1-1100 of the Code of Virginia specifies "'Class B Contractors' perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is \$7,500 or more, but less than \$70,000 . . ."

Evans practiced in a class of license for which the contractor is not licensed.

4. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

31. Failure to obtain written change orders, which are signed by both the consumer and the licensee or his agent, to an already existing contract.

FACTS:

On August 26, 2003, Evans provided Innocenzi with an invoice, in the amount of \$1,838.16, for installing a rear 8 x 8 deck not included in the estimate, removing stairs, and reframing walls. (Exh. R-1)

In a written response dated May 10, 2004, Evans stated Innocenzi requested the front porch be changed from 14'1" (long) x 4'2" (wide) to 20' (long) x 6' (wide), which cost an additional \$2,500.00. Evans stated "Innocenzi wanted and did change things but did not want to pay extra for her charges." Evans stated Innocenzi decided she wanted spiral stairs going into the basement after the stairs were built. Evans also stated Innocenzi requested a small 8 x 8 deck at the rear entrance of the French doors. Evans stated Innocenzi changed her mind and insisted on having a sliding glass door in the basement, but later wanted French doors instead. (Exh. R-1)

Evans failed to obtain written change orders, signed by both parties, for modifications to the scope of work and cost of the contract.

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR CONTRACTORS**

Re: Don D. Cooper, t/a Superior Home Remodeling

File Number: 2004-04576  
License Number: 2705074046

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On December 16, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Don D. Cooper, t/a Superior Home Remodeling to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

*On February 8, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.*

The following individuals participated at the IFF: Jerry and Priscilla Glasgow; Complainants; Jeffrey W. Buckley, Staff Member; and Michael Redifer, Presiding Board Member. Neither Don D. Cooper, t/a Superior Home Remodeling nor anyone on his behalf appeared at the IFF.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective January 1, 2003)

Don D. Cooper, t/a Superior Home Remodeling failure to use a contract that contained subsections: (c), (d), and (i) is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$350.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

Count 2: Board Regulation (Effective January 1, 2003)

Don D. Cooper, t/a Superior Home Remodeling practiced in a class of license for which he is not licensed. Specifically, on April 18, 2003, Don D. Cooper, t/a Superior Home Remodeling was issued a Class C contractor's license. However, the total amount paid to the contractor by the complainants was in excess of \$51,000.00 and, accordingly, is a violation of Board Regulation 18 VAC 50-22-260.B.27. Furthermore, two of the ten contracts entered into with the Regulant were individually in excess of \$7,500.00. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 3: Board Regulation (Effective January 1, 2003)

Don D. Cooper, t/a Superior Home Remodeling, failure to return to the complainants property to perform work contracted for is a violation of Board Regulation 18 VAC 50-22-260.B.14. Specifically, the complainants prepared a punch-list of unfinished items to be completed by the Regulant. On February 13, 2004, the complainants mailed the Regulant a letter requesting the remaining punch-list items be completed within twenty local good weather days from February 20, 2004. During the IFF Conference, the complainants testified that the Regulant failed to return to complete any of the unfinished items outlined within the punch-list. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation (Effective January 1, 2003)

Don D. Cooper, t/a Superior Home Remodeling failure to respond to an investigator seeking information in the investigation of a complaint filed with the board is a violation of Board Regulation 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$1,000.00 remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of the order.

By: \_\_\_\_\_  
Michael Redifer  
Presiding Officer Board Member

Board for Contractors

Date: \_\_\_\_\_

**MONETARY PENALTY TERMS**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER.*

FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: October 25, 2004 (revised December 1, 2004)

FILE NUMBER: 2004-04576  
RESPONDENT: Don D. Copper, t/a Superior Home Remodeling  
LICENSE NUMBER: 2705074046  
EXPIRATION: April 30, 2005

SUBMITTED BY: Sherell Queen  
APPROVED BY: Linda J. Boswell

COMMENTS:

None.

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Don D. Copper, t/a Superior Home Remodeling ("SHR"), was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705074046).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On May 5, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Priscilla Glasow ("Glasow") regarding SHR. (Exh. C-1)

SHR entered into the following contracts, for a total of \$51,005.00, with Glasow to perform for remodeling work at 6518 Spring Valley Drive, Alexandria, Virginia:

- January 16, 2003, in the amount of \$2,800.00
- January 29, 2003, in the amount of \$9,800.00
- February 14, 2003, in the amount of \$3,600.00
- February 27, 2003, in the amount of \$2,135.00
- February 27, 2003, in the amount of \$22,500.00
- March 13, 2003, in the amount of \$900.00
- March 19, 2003, in the amount of \$1,245.00
- March 30, 2003, in the amount of \$4,260.00

- May 18, 2003, in the amount of \$1,000.00
- June 4, 2003, in the amount of \$2,765.00. (Exh. C-2)

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1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
  - c. A listing of specified materials and work to be performed, which is specifically requested by the consumer;
  - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
  - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

FACTS:

The contract used by SHR in the transaction failed to contain subsections: c., d., and i. (Exh. C-2)

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

27. Practicing in a classification, specialty service, or class of license for which the contractor is not licensed.

FACTS:

On April 18, 2003, SHR was issued Class C contractor's license number 2705074046. (Exh. I-4)

Section 54.1-1100 of the Code of Virginia states "'Class C contractors' perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over \$1,000 but less than \$7,500 . . ."

SHR practiced in a class of license for which it is not licensed.

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

14. Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more).

FACTS:

As of November 2003, SHR failed to return to the subject property to perform work. (Exh. C-1)

- On February 13, 2004, Glasow sent SHR a letter regarding incomplete work and requested SHR complete the work within twenty (20) local good weather days from February 20, 2004. Glasow enclosed a list of items to be completed by SHR. (Exh. C-1)

4. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

FACTS:

On May 26, 2004, Investigator Sherell Queen, the Board's agent, made a written request to SHR at the address of record of 2309 Tioga Parkway, Baltimore, Maryland 21215, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested a written response be provided by June 17, 2004. (Exh. I-1)

On September 22, 2004, the Board's agent made written request to SHR, via certified mail, at the address of record of 2309 Tioga Parkway, Baltimore Maryland 21215, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested a written response be provided by October 6, 2004. (Exh. I-2) On October 19, 2004, the certified letter was returned to the Board's agent as "unclaimed." (Exh. I-3)

As of October 25, 2004, SHR failed to respond to an investigator seeking information in the investigation of a complaint filed with the board.

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR CONTRACTORS**

Re: Lifetime Homes of Virginia Inc.

File Number: 2004-04426  
License Number: 2705081706

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On December 16, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Lifetime Homes of Virginia Inc. to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On February 8, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jeffrey W. Buckley, Staff Member; and Michael Redifer, Presiding Board Member. Neither Lifetime Homes of Virginia Inc. nor anyone on its behalf appeared at the IFF.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Lifetime Homes of Virginia Inc. was issued Class A contractor's license number 2705081706 on January 6, 2004. The contract and actions relating to the contract occurred prior to Lifetime Homes of Virginia Inc. being issued a license.

Count 1: Board Regulation (Effective January 1, 2003)

Therefore, I recommend Count 1 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.9.

Count 2: Board Regulation (Effective January 1, 2003)

Therefore, I recommend Count 2 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.10.

Count 3: Board Regulation (Effective January 1, 2003)

Therefore, I recommend Count 3 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.11.

Count 4: Board Regulation (Effective January 1, 2003)

Therefore, I recommend Count 4 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.6.

By: \_\_\_\_\_  
Michael Redifer  
Presiding Officer Board Member  
  
Board for Contractors

Date: \_\_\_\_\_

#### **MONETARY PENALTY TERMS**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: September 22, 2004 (revised November 10, 2004)

FILE NUMBER: 2004-04426  
RESPONDENT: Lifetime Homes of Virginia, Inc.  
LICENSE NUMBER: 2705081706  
EXPIRATION: January 31, 2006

SUBMITTED BY: Sherell Queen  
APPROVED BY: Linda J. Boswell

COMMENTS:

None.

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Lifetime Homes of Virginia, Inc. ("LHV") was at all times material to this matter a licensed Class A contractor in Virginia (No. 2705081706).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On April 26, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Deborah and Robert Wine ("the Wines") and Arthur and Deborah Pastelnick ("the Pastelnicks") regarding LHV. (Exh. C-1)

On March 7, 2003, the Wines and the Pastelnicks entered into a written contract, in the amount of \$139,700.00, with LHV for the purchase and set up two manufactured homes at 13349 Dowdy Lane, Unionville, Virginia. (Exh. R-2)

In May 2003, the Wines and the Pastelnicks moved into the new homes. (Exh. C-1)

In a letter dated June 9, 2004, Richard Daniel ("Daniel"), President of LHV, stated, "This job was handled by Joe Hatfield, General Manager, who is no longer working for Lifetime Homes of Virginia, Inc." LHV also acknowledged repairs were performed at the subject property. (Exh. R-1)

\*\*\*\*\*

1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
  - a. When work is to begin and the estimated completion date;
  - c. A listing of specified materials and work to be performed, which is specifically requested by the consumer;
  - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and
  - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

FACTS:

The contract used by LHV in the transaction failed to contain subsections: (a), (c), (h), and (i). (Exh. R-2)

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

10. Failure to make prompt delivery to the consumer before commencement of work of a fully executed copy of the contract as described in subdivisions 8 and 9 of this subsection for construction or contracting work.

FACTS:

The Wines and the Pastelnicks received a "Project Breakdown" from Equity One Bank. (Exh. I-4)

The Wines and the Pastelnicks requested LHV provide copies of the signed contract but LHV refused to release copies of the signed contract. (Exh. C-1)

As of September 21, 2004, LHV failed to deliver to the Wines or the Pastelnicks before commencement of work a fully executed copy of the contract. (Exh. I-3)

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

11. Failure of the contractor to maintain for a period of five years from the date of contract a complete and legible copy of all documents relating to that contract, including, but not limited to, the contract and any addenda or change orders.

FACTS:

On May 26, 2004, Investigator Sherell Queen, the Board's agent, made a written request to LHV requesting LHV provide a copy of the contract for this project. (Exh. I-1)

In a letter dated June 9, 2004, Daniel stated, "We have an unsigned Contract of Purchase in the file, but no signed contract." (Exh. R-1)

LHV failed to maintain for a period of five years from the date of the contract a complete and legible copy of all documents relating to the contract.

4. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

6. Misconduct in the practice of contracting.

FACTS:

On December 9, 2002, Bill Howell of LHV submitted a preapplication for the removal of an existing mobile home and installation of two manufactured homes joined by a breezeway at the subject property. The preapplication indicated Homes by Blue Ridge ("HBR"), license number 2701034851, as the contractor. (Exh. W-1)

On January 28, 2003, Joe Hatfield ("Hatfield") signed an affidavit for a permit. According to the affidavit, Hatfield was with HBR and, as agent for the owner, applied for the building permit. On January 28, 2003, conditional doublewide permit number 0009405-2002 was issued for the set up of the manufactured homes with a breezeway at the subject property.

The permit indicated Homes by Blue Ridge ("HBR") as the contractor. The permit was signed by Hatfield as the owner's agent. (Exh. W-1)

In a letter dated March 5, 2004, Paul Dryer ("Dryer"), attorney representing HBR, stated:

In 2002, Homes by Blue Ridge ceased doing business with Lifetime Homes for various reasons. Prior to the cessation of the business relationship, Homes by Blue Ridge would apply for building permits under its license for jobs in which it would be performing contracting work for Lifetime Homes. At no point, did Mr. Wright or anyone from Home by Blue Ridge, authorize Joe Hatfield or any other officer, employee or agent of Lifetime Homes to apply for and obtain a building permit under its license on jobs that Homes by Blue Ridge was not actually performing the work. Mr. Wright had no knowledge that this project was being done under his license until he received a letter addressed to Joe Hatfield, c/o Homes by Blue Ridge, Crimora, VA, from your office [Orange County Department of Building Inspections]. Mr. Hatfield has never been employed by or authorized by Homes by Blue Ridge to act on its behalf. (Exh. W-2)

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: MICHAEL REDIFER
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on February 8, 2005
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

VBODA UPMIA ILL NFPA INEI NAKRSO

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Signature

Date

2-8-05